

# Assisted Living In South Dakota



## A Consumer's Guide

Adult Services and Aging

Department  
of Social Services

Visit us on the Web at:  
[www.state.sd.us/social/asa](http://www.state.sd.us/social/asa)



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## Adult Services and Aging Field Offices

Aberdeen	.605-626-3145
Belle Fourche	.605-892-2731
Brookings	.605-688-4330
Chamberlain	.605-734-6581
Deadwood	.605-578-2402
Hot Springs	.605-745-5100
Huron	.605-353-7112
Lake Andes	.605-487-7607
Madison	.605-256-5683
Martin	.605-685-6521
Mission	.605-856-4431
Mitchell	.605-995-8000
Mobridge	.605-845-2922
Olivet	.605-387-4219
Pierre	.605-773-3521
Pine Ridge	.605-867-5865
Rapid City	.605-394-2434
Redfield	.605-472-4220
Sioux Falls	.605-367-5400
Sisseton	.605-698-7675
Sturgis	.605-347-2588
Vermillion	.605-677-6800
Watertown	.605-882-5003
Winner	.605-842-0400
Yankton	.605-668-3030

If a resident has a hearing impairment, the center should make a reasonable accommodation to facilitate the resident's participation. By obtaining a microphone, moving the activity to a room where the acoustics are better, or providing other audio enhancers would be appropriate accommodations for the activity. For residents with vision impairments, large print books, newspapers, and magazines on tape can be made available. These items can be located at the local library. Auxiliary aids, such as hearing aides, are not required to be provided by the assisted living center.

## Conclusion

When trying to choose the right assisted living center for you or your family member, there are many things to consider. It is hoped that this booklet has provided a framework of questions, issues and situations which should be reviewed prior to signing an Admissions Agreement. We hope this guide has provided you with the information you need to help make an informed decision while choosing an assisted living center which will meet your individual needs.

## More Information

If you need more information or have any questions about:

- licensure of a facility, call the Department of Health at: (605) 773-3356.
- payment sources , call Adult Services and Aging at: (605) 773-3656 or 1-866-854-5465.
- the ombudsman, call Adult Services and Aging at: (605) 773-3656 or 1-866-854-5465.

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## Assisted Living Centers



While assisted living centers have been available in South Dakota for many years, the growth and availability of assisted living has had a dramatic increase since the early 1990s. Assisted living is a residential alternative that promotes maximum independence for each resident through a combination of supportive services and assistance. The definition of assisted living from one state to another may vary and so will the cost and types of service.

Assisted living centers vary in size, style and the optional services they may offer. Small family style living or the larger complex of units can be found in South Dakota. Some facilities are operated by nonprofit organizations, while others are proprietary. In addition, some facilities may be co-located or affiliated with a hospital or nursing facility. Assisted living centers may accept certain restricted admissions if they meet additional licensing requirements under SD Administrative Rules 44:04:04:12.

In South Dakota, the Department of Health is responsible for the licensure and inspection of assisted living centers. The Administrative Rules of South Dakota, Article 44:04, Medical Facilities, specifies the requirements for staffing, operating and resident care.

## Notice of Non-Discrimination



The Americans with Disabilities Act (ADA) is a federal law prohibiting discrimination against persons with disabilities in all public facilities, places of employment and commercial facilities. The

Federal Fair Housing Amendments Act of 1988 (FHAA) prohibits discrimination against persons with disabilities in housing transactions, including the provision of services in connection with the housing. Therefore, assisted living residents, employees and visitors with disabilities are covered under the provisions of the ADA and FHAA.

In order to ensure that persons with disabilities are not discriminated against, assisted living centers must make reasonable accommodations for individuals with disabilities to assist them to participate and enjoy the same benefits of assisted living that non-disabled individuals enjoy.

According to the ADA, reasonable accommodation means any modification or adjustment to the environment which will assure individuals with disabilities the same rights, privileges and access equal to those individuals without disabilities. Reasonable accommodations include the use of auxiliary aids, services or devices. An example of accommodations may include offering a lecture or book club as an activity.



## Complaints About the Center

The center administrator should be contacted when you or the resident have any concerns about the quality of care or any policy or treatment received while in their care. If you are not satisfied with the response you have the right to contact a local ombudsman.

The purpose of the Ombudsman Program is to receive, investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities, which includes assisted living centers. The ombudsman is available to all residents of assisted living and is an advocate for the resident to assist them in resolving questions about the care or services during their stay at the center.

An ombudsman will investigate and help to resolve a complaint regarding resident's rights; access to information; admission, transfer and discharge; resident choice and privacy; personal funds; resident care; restraints; dietary; environment; administration; and other pertinent issues related to resident care. Complaints can be made anonymously, however, the ability to substantiate complaints is more effective when someone is willing to provide evidence and first hand knowledge. It is very important to report any situation of possible abuse or neglect.

The Department of Social Services, Office of Adult Services and Aging, is the point of contact for a local ombudsman. See page 16 of this guide for a listing of Social Services offices throughout the state or call 605-773-3656.

An assisted living center is any institution, rest home, boarding home, place, building or agency that is maintained and operated to provide personal care and services which meet some need beyond basic provision of food, shelter and laundry in a free standing, physically separate facility which is not otherwise required to be licensed.

In general terms, an assisted living center is required to provide assistance with daily living activities, including eating, bathing, dressing and personal hygiene; three meals a day; supervision of self-administration of medications; laundry service including personal laundry; housekeeping; and 24 hour staffing.

## Requirements for Assisted Living

By South Dakota Codified Law, any health care facility or related institution for the care of people including assisted living must obtain a license from the Department of Health. This would not include those residences that only offer room and board. By Administrative Rule, the following is required of assisted living centers:

- Physical Environment Qualifications
- Fire & Safety Protection
- Management & Administration
- Long-Term Care Supportive Services
- Construction Standards
- Residents' Rights

To receive a copy of the Administrative Rules, Article 44:04, Medical Facilities, you may call the Department of Health at (605) 773-3356. You can also view the article online at the SD Legislative Research Council's Web site at: <http://legis.state.sd.us/rules/index.cfm>

## Considering Assisted Living

Assisted living centers are intended to be an alternative for individuals who do not need 24-hour nursing care but do need a combination of housing and assistance. Assisted living centers are generally less expensive than nursing facilities and are intended to be a more home-like environment. Assisted living is NOT a nursing facility, and even though they might be co-located, the facility may only offer limited nursing care to individuals in the assisted living residences.

The basic philosophy of assisted living is to provide supportive services 24 hours a day to individuals who need assistance to carry out their daily living activities. Assistance may not exceed cuing or limited hands-on physical assistance. While assisted living centers may not admit or retain residents who require ongoing nursing care, some facilities have been approved to assist individuals with supplemental oxygen, provide therapeutic diet meals or administer medications. Centers which provide additional assistance must follow these guidelines.

1. Assisted living centers that have residents who require administration of medications must employ or contract with a licensed nurse to review resident care and condition at least weekly. Centers must also employ or contract with a registered nurse or registered pharmacist to provide medication administration training to their unlicensed assistive personnel who administer medications.

2. Assisted living centers that have residents with cognitive impairments that prevent them from understanding, making themselves understood, or communicating their needs as determined by the physician of record must have

## Before You Sign the Agreement

- Is the language in the agreement clearly understandable? Has the family attorney read over the agreement if you have any doubts about certain clauses or statements? Be sure you are comfortable with the agreement and all of the provisions. If there are any terms which appear vague or ambiguous, ask for clarification in writing.
- What are the conditions under which the assisted living center can terminate the agreement? Are these conditions acceptable and fair? Are the same terms in effect should you decide to leave the facility?
- Does the agreement specify the procedure which will be taken if you, the resident, require more care than the facility is permitted to provide? For example, if the resident can no longer get out of bed or feed him/herself?
- Does the agreement fail to mention something that you might think is important? For example, if the facility advertises that they provide transportation but when you need it they say it is not available, what recourse do you have to obtain the needed service?
- Are there any restrictions or limitations in the agreement which make you uncomfortable, and therefore you would prefer not to sign the agreement? For example, are there restrictions on having visitors during certain times of the day or evening? Are you prohibited from having snacks in your room?
- Do any statements, or did anyone verbally, suggest the resident convert their private assets and income to the facility's control?

**Remember, admission agreements are written to protect the center. Please read the agreement or have your attorney review it so you clearly understand all of the language in it.**

- Does the agreement, or any accompanying form, seek a blanket consent for medical treatment or pharmacy services?
- Do any agreement provisions waive or limit the facility's liability for lost or damaged personal possessions or injury to the resident?
- Does the agreement provide reasons the resident can be discharged for other than (1) medical reasons, (2) the resident's welfare or that of other residents, (3) nonpayment except as prohibited by Medicaid?
- Does the contract provide for a minimum number of days advance notice to any discharge or transfer initiated by the facility?
- Does the agreement explain how many days a resident's bed can be held should the resident be absent during a hospitalization, family event, etc.?



3. Assisted living centers that have residents with physical impairments that prevent them from walking independently must provide a call system.
4. Assisted living centers that have residents who do not have the ability to exit from the facility during an emergency must equip the facility with complete automatic sprinkler protection.

5. Assisted living centers that have residents dependent on supplemental oxygen must train staff regarding oxygen safety and must practice safe oxygen handling procedures.
6. Assisted living centers that have residents requiring diets that cannot be developed using a simplified diet manual must employ or contract with a dietitian. The dietitian must approve written menus and diet extensions, assist residents' special diet needs, plan individual diets, and provide guidance to dietary staff in areas of preparation, service and monitoring residents' acceptance of these diets.



## Looking for the Right Facility

If you or someone you know is thinking about moving to an assisted living center, visit the centers in your community, talk to neighbors and friends about the care provided, visit with the center's staff and perhaps acquaintances who might be living in the center. Ask to review the admissions agreement and any other documents the center requires upon admission. Request to read their most recent licensure survey.

## Questions to Consider Asking

- Do the residents appear to be well attended?
  - Is the assisted living center clean and odor free?
  - Does there appear to be adequate staff for the number of residents?
  - Can a resident bring their personal furniture and belongings?
  - Are there activities, individual or group, offered at the center?
  - Does the resident have privacy during family visits?
  - Do staff appear to know the residents and treat them with respect?
  - During meal time, did the food look and smell appetizing?
  - Would the center consider a short term stay for a trial period?
- Residents Rights:**  
Assured living centers must insure that all residents receive a copy of their rights and that these rights are fully implemented. Administrative rules require assisted living centers to inform residents of these rights both orally and in writing.

## Admissions Agreement

Every facility must have an admissions agreement which describes the services available to each resident. The following checklist is intended to highlight those areas which protect the rights of the resident and should give some assurances of the quality of care which is to be provided to the resident.

- Is there a clear, itemized list of services which are included in the basic daily rate?
- Is there a clear, itemized list of extra services and charges?
- Does the facility require the signature of the resident or their legal guardian?
- Does the admissions agreement state they are willing to accept Medicaid-eligible residents and those who convert to Medicaid any time after admission?
- Does the facility require a down payment from potential Medicaid or private pay residents?
- Does the facility require residents to initially be private pay for a period of time before converting to Medicaid?
- Does the agreement provide a reasonable timeframe (i.e. 30 days) to be notified of any increase in the facility's fees or charges?
- Does the agreement include an understandable statement of residents rights, or is it stated in a separate document?
- Does the Residents Rights document outline the procedures for filing a complaint about the care or services provided within the home? The name of the local Ombudsman should be made available upon request.



## Extra Costs to Consider

Some facility rates just include room, meals and housekeeping. Any other personal care services, transportation or extra housekeeping tasks may have additional charges. When considering a facility, the rates and services offered, be thinking about your future and not just your current needs. Would the cost for the additional services be reasonable?



For any services not covered in the basic monthly rate, such as a telephone, cable TV, newspaper delivery, etc., what are the charges for these? Make sure you understand the "fees" or "add-on" costs. The facility must provide in writing to each resident a list of services available in the facility and the charges for such services. The facility must specify the items and services residents won't be charged for and the amount of services that residents may be charged for and the amount of any such charges.

Does the facility require a security deposit prior to admission? Ask what the purpose of the fee is and if it is refundable, and if so, under what circumstances.

What is the assisted living center's policy on increasing the monthly rate? Does the facility have an automatic cost of services increase established during the year? How is the resident informed of this increase and is the timeframe reasonable for the notice period?

## Facility Lists Available

The Department of Health, Office of Health Care Facilities Licensure and Certification, provides a list of licensed assisted living centers in South Dakota. The list includes the name of the facility, administrator, address, phone number and number of beds licensed per center.

The Department of Health does not make recommendations on the quality of care provided by the assisted living center; however, it does recommend that interested individuals ask to read the most recent survey of the center. The report will highlight any significant problems identified through the survey process. A Plan of Correction should also be available to document how and when the center intends to correct any survey deficiencies. Centers are required to have a copy of the survey posted and Plan of Correction available for the public to read.

## Staffing and Services

Assisted living centers are required to have sufficient number of personnel to provide effective and safe care. For assisted living centers with 10 beds or less, one staff person in the facility is required during sleep hours. This staff person may sleep if the facility fire alarm is adequate to promptly alert staff, a staff call system is available, the staff bedroom has an egress window, and the residents have the capability of prompt evacuation.

For assisted living centers with 11 to 16 beds, inclusive, one staff person who is awake is allowable during sleeping hours if the facility fire alarm is adequate to promptly alert staff, a staff call system is available, and the residents can promptly

## Cost of Assisted Living

The cost of assisted living will obviously vary depending on the location, the size of the residential unit, and the optional services selected by the individual.

The majority of residents in assisted living pay privately. South Dakota is able to assist with payment for assisted living in the following situations:

1. An individual would have to make application for long-term care for Medicaid assistance and have the facility willing to accept the payment for care of the resident.
2. Certain assisted living centers have met criteria to provide waiver services to individuals age 65 years of age and older and who have been determined to meet financial eligibility and have a condition which would prevent them from self-administration of medications.

Not all facilities have chosen to participate in these programs. You should check with the facility administrator or the Department of Social Services to determine if the facility participates.

A frequently asked question is what happens when a person enters an assisted living center paying privately and at some point in time needs assistance to pay for his or her care? An individual would make application to the Department of Social Services for long-term care Medicaid assistance. Through this process, financial eligibility for the program would be determined as well as an assessment to determine the need for this type of care. The application process may take up to 45 days so the individual would need to make arrangements for payment during this time.

evacuate. Large centers must have a minimum of two staff members on duty at all times. In either center, staff should be available to meet scheduled and unscheduled needs of residents. The center must have a formal orientation program and an ongoing education program for all personnel.

When you visit the assisted living center, talk with as many staff as possible. The administrator will be a good source but also talk with the staff who provide individual care to the residents. Try to get a sense of who they are, if they enjoy their job, and if they are personable to the residents.

## Questions to Ask the Administrator or Staff

- How many staff are employed by the center?
- Will the residents have the same person helping them each day?
- If a staff person calls in sick, are replacement staff available?
- Have there been any staff resignations lately? Why?
- Is there a call system from each resident's room in case of emergency? If not, how do they plan to accommodate this need?
- Is this facility approved to provide medication administration or any of the other specialty licenses?
- Is the staff trained and appear to know what their job requires?
- Can I hire a nurse privately to provide me services?
- Can I ask for more assistance from staff on certain days?
- Can I go to my church in the community?
- Can I attend activities in the community?
- Can I have an occasional meal in my own room?